

# Interrogatory Nos. 12 and 13

**D Berge**

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**From:** D Berge [berge@realysis.com]  
**Sent:** Tuesday, October 30, 2012 10:01 PM  
**To:** Realysis Clients  
**Subject:** Realysis Client Clarification Letter  
**Attachments:** Realysis Client Clarification email Letter103012.doc

Dear Realysis Client,

Please read the attached letter being sent to all Realysis clients for the purpose of clearing up the confusion resulting from misleading information, expressed or implied, in a letter sent out from Edsel Charles of MarketGraphics Research Group in Nashville (Franklin, TN) dated October 4, 2012.

Thanks,

David P Berge  
Realysis of Memphis  
PO Box 41991  
Memphis, TN 38174  
David@Realysis.com

October 30, 2012

Dear Realysis Client,

The purpose of this letter is to clear up the confusion resulting from misleading information, expressed or implied, in a letter sent out from Edsel Charles of MarketGraphics Research Group (MGRG) in Nashville (Franklin, TN) dated October 4, 2012.

The MGRG letter was sent to those who have been clients of my father, Don Berge, for many years and **who have NOT been clients of MarketGraphics Research Group in Nashville.**

The letter said that there has been a change of management of the Memphis market, that Don Berge had retired and that your service is being taken over by Edsel Charles and his MarketGraphics Research Group in Nashville.

Don Berge has never been an employee or member of management of MGRG. He had been operating under a license agreement with MGRG since 1997 (until September 28, 2012). The agreement expressly states that the relationship between MGRG and Don Berge is that Don Berge is an independent contractor and not an employee. Furthermore, the relationship is not a partnership, joint venture or agency. Don Berge had been paying MGRG for 15 years to produce a report three (3) times each year using the MarketGraphics report format and logo. All the data in each report has been gathered by Don Berge and David Berge for the past 15 years. We have performed all 43 audits of the Memphis 5-County Market ourselves beginning with the first one in the spring of 1998. **No one from the MarketGraphics office in Nashville has ever participated in these past 43 audits over the last 15 years.**

Don Berge terminated his license agreement with MGRG effective September 28, 2012. Up until that date he was operating as MarketGraphics of Memphis (which has now ceased operating). I, David P Berge, am the sole owner of Realysis of Memphis, LLC. The Realysis Data Tool was developed by Don Berge and made available to his clients since November, 2009. The client user was assigned an access code so as to be able to download the tool to the user's computer desktop to supplement the reports produced by MGRG because of inadequacies and deficiencies in the MarketGraphics reports, including questionable and statistically unsound forecasting methodology.

In addition to the online Realysis Data Tool, Realysis of Memphis, LLC has now produced its first printed report (234 pages) entitled Metro Memphis New Homes Market Analysis Q2 / 2012. Future Realysis reports will be produced following each calendar quarter (instead of every 4 months).



Going to calendar quarter reporting is the result of numerous requests from clients (especially banks) so that our data will be in synch with the various internal and external information they are using such as loan data, quarterly government stats (mortgage rates, employment rates, GDP, etc.).

The Realysis report incorporates a number of major changes:

- The number of market areas (MKT) has been increased from 32 to 38 and have been changed to conform to the various municipal boundaries (including their respective annexation reserves). For example, in Shelby County each of the municipalities and its annexation reserve (outside Memphis) has been separated into a distinct market area (MKT). That is true for Millington, Arlington, Lakeland, Bartlett, Germantown and Collierville. This will become increasingly important due to the proposed independent municipal school systems.
- Changing the boundaries has necessitated map number changes and subdivision number changes.
- In addition to identifying the various price ranges for each subdivision, we have also introduced a Median Price (derived from MLS data) for each subdivision that is "active", which is defined as having new housing inventory (under construction or finished unoccupied).

The audit for Q3 / 2012 will soon be completed and made available first online (Realysis Data Tool) and then the printed report a week or so later. The ongoing annual schedule for Realysis quarterly reports will be EOM Jan/Apr/Jul/Oct for Q4/Q1/Q2/Q3 for online access followed by the printed report (book) one week later.

MarketGraphics Research Group (MGRG) has indicated in the letter of October 4, 2012 that it will attempt to audit the Memphis Area Market 3 times per year. They will send representatives or employees to Memphis to audit the 900+ recorded subdivisions for the first time. **They have no first-hand knowledge or experience of this market.**

I assure you that the degree of accuracy and detail that will go into the future MarketGraphics reports will not approach the accuracy and detail of the Realysis reports.

I trust that this letter helps to clarify the distinctions between MarketGraphics Research Group in Nashville and Realysis of Memphis, LLC.

Feel free to give me a call.

Sincerely,

David P Berge,  
Realysis of Memphis, LLC

**D Berge**

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**From:** D Berge [berge@realysis.com]  
**Sent:** Wednesday, October 31, 2012 2:13 PM  
**To:** Realysis Clients  
**Cc:** Don Berge (don@dberge.com)  
**Subject:** FW: MORE INFO - Realysis Client Clarification Letter  
**Attachments:** Realysis Client Clarification email Letter103012.doc

Dear Realysis Client,

I am resending this email with attached letter because I had omitted my phone number, which I have now added to my signature below. Some additional client names have been added to this email list which had been omitted from the first email.

I also want to advise you that my father, Don Berge, is the Owner and Principal Broker of two real estate firms: MGM Properties (licensed in TN) and LDR Realty (licensed in MS). I also am licensed as a real estate agent. Don Berge has been working with some bank clients in the marketing of their foreclosed subdivision lots in West Tennessee and DeSoto County, MS. You can reach him at (901) 496-9555 or at [don@dberge.com](mailto:don@dberge.com).

We also have been doing construction loan progress inspections for bank clients every month since the summer of 2006 in both the Memphis and Nashville markets.

We look forward to hearing from you.

David P Berge  
Realysis of Memphis  
PO Box 41991  
Memphis, TN 38174  
(901) 324-5650  
[David@Realysis.com](mailto:David@Realysis.com)

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Thanks,

David P Berge  
Realysis of Memphis  
PO Box 41991  
Memphis, TN 38174  
[David@Realysis.com](mailto:David@Realysis.com)



## D Berge

**From:** D Berge [berge@realysis.com]  
**Sent:** Friday, November 09, 2012 9:56 AM  
**To:** Realysis Clients  
**Cc:** Don Berge (don@dberge.com)  
**Subject:** New MarketGraphics Report (Vol. 44)

Dear Realysis Client,

Some of my clients have reported that they received, this week, the new MarketGraphics report, Vol. 44, and are asking if I or my father, Don Berge, supplied the data for this report (which had been the case with the previous 43 reports). They are also asking if they have an obligation to pay for this report.

Please be advised that Don Berge and David Berge had nothing to do with this new MarketGraphics report, Vol. 44. You have no obligation to pay for this report. You have no subscription agreement.

You have been clients of Don Berge (dba MarketGraphics of Memphis) and are not, by extension, clients of MarketGraphics Research Group in Nashville (Franklin, TN).

The Realysis Q3 report will be out next week. I would like very much to meet with you so that we can compare the two reports.

Sincerely,

David P Berge  
Realysis of Memphis  
PO Box 41991  
Memphis, TN 38174  
(901) 324-5650  
David@Realysis.com